

# MANDATE

SDNY / NYAY  
06-cv-13157  
Lynch

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

STORM LLC,

Petitioner,

ALTIMO HOLDINGS & INVESTMENTS LIMITED, and  
ALPREN LIMITED,

Relief Defendants-Appellants

-against-

TELENOR MOBILE COMMUNICATIONS AS,

Respondent-Appellee.

06-5771(L);  
06-5895(CON)

## DISMISSAL AGREEMENT AND ORDER DISMISSING APPEAL

WHEREAS, Petitioner Storm LLC ("Storm") and Respondent-Appellee Telenor Mobile Communications AS ("Telenor") in 2004 entered into a shareholders agreement (the "2004 Shareholders Agreement") relating to, inter alia, the governance of a Ukraine telecommunications company, Closed Joint Stock Company "Kyivstar G.S.M." (A313-63)<sup>1</sup>;

WHEREAS, on February 7, 2006, Telenor commenced an arbitration against Storm in New York pursuant to the arbitration clause of the 2004 Shareholders Agreement (the "Arbitration");

WHEREAS, on October 22, 2006, the arbitral tribunal issued the Partial Final Award Regarding Jurisdiction in which it ruled that the arbitration clause in the 2004

<sup>1</sup> Citations to "A\_\_\_\_" refer to the Joint Appendix filed with this Court on February 14, 2007.

CERTIFIED:

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Shareholders Agreement was valid, and denied Storm's motion to dismiss the Arbitration (A520-36);

WHEREAS, on November 13, 2006, Storm commenced this action against Telenor in New York Supreme Court, New York County, to vacate the arbitral panel's Partial Final Award Regarding Jurisdiction and to enjoin the parties from proceeding with the Arbitration;

WHEREAS, on November 14, 2006, Telenor removed the action to the District Court (A310-12);

WHEREAS, on November 22, 2006, the District Court denied Storm's motion (A105-25);

WHEREAS, on December 5, 2006, Telenor moved by order to show cause to compel Storm to arbitrate and for a preliminary anti-suit injunction and temporary restraining order against Storm and Relief Defendants-Appellants Altimo Holdings & Investments Limited ("Altimo") and Alpren Limited ("Alpren") (A986-88);

WHEREAS, Altimo and Alpren contested the District Court's personal jurisdiction over them;

WHEREAS, on December 15, 2006, the District Court issued an Opinion and Order holding that Telenor was likely to be able to demonstrate that the Court had personal jurisdiction over Altimo and Alpren and entered an Order enjoining Storm, Altimo and Alpren "from bringing or attempting to cause the enforcement of any legal action in the Ukraine that would disrupt, delay or hinder in any way the arbitration proceedings between Telenor and Storm in New York" (A32-35);

WHEREAS, on December 18, 2006, over Altimo and Alpren's objections, the District Court issued an order proposed by Telenor enjoining Altimo, Alpren and Storm from



“(a) commencing, prosecuting, enforcing, causing the enforcement, attempting to enforce or cause the enforcement; or (b) allowing, or failing to take steps to prevent, any other person, official or entity from enforcing or attempting to enforce” any Ukrainian order “that would disrupt, delay or hinder, in any manner whatsoever, the arbitration proceedings between Telenor Mobile and Storm” (A36-37);

WHEREAS, Altimo and Alpren filed notices of appeal from both the December 15, 2006 Opinion and Order and the December 18, 2006 Order, and those appeals were consolidated into the above-captioned matter (Storm did not appeal);

WHEREAS, the parties have since completed briefing for this matter, and oral argument is scheduled before this Court on January 14, 2008;

WHEREAS, while this appeal was pending, the Arbitration was concluded and a Final Award issued, and the District Court confirmed that award on November 2, 2007;

WHEREAS, on November 6, 2007, Storm filed a notice of appeal from the District Court’s confirmation of the arbitral award, and that appeal is currently pending before this Court; and

WHEREAS, the parties and the District Court, during a conference on December 10, 2007, agreed that the completion of the Arbitration and the District Court’s confirmation of the arbitral award have rendered the appeal in the above-captioned matter moot by happenstance and through no fault of any party and that the December 15, 2006 Opinion and Order and the December 18, 2006 Order should be vacated;

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned attorneys for Relief Defendants-Appellants Altimo Holdings & Investments Limited and Alpren Limited and Respondent-Appellee Telenor Mobile Communications AS that, pursuant to Federal Rule of Appellate Procedure 42(b), the consolidated appeal filed in the above-captioned

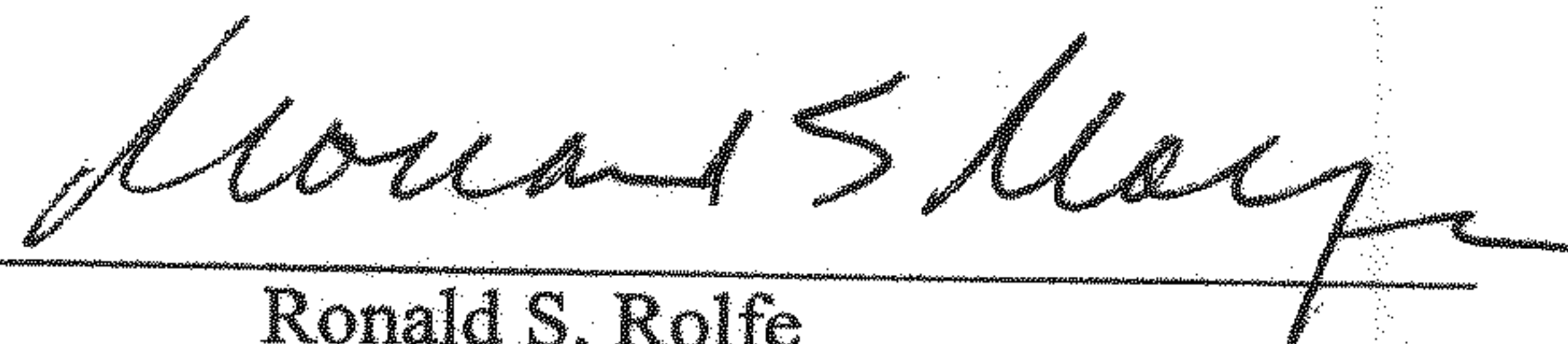


action is hereby dismissed as moot and remanded to the District Court so that the District Court may vacate its December 15, 2006 Opinion and Order and December 18, 2006 Order and dismiss the underlying action as moot. Each of the parties is to bear its own costs and fees.

December 18, 2007

CRAVATH, SWAINE & MOORE LLP

by



Ronald S. Rolfe

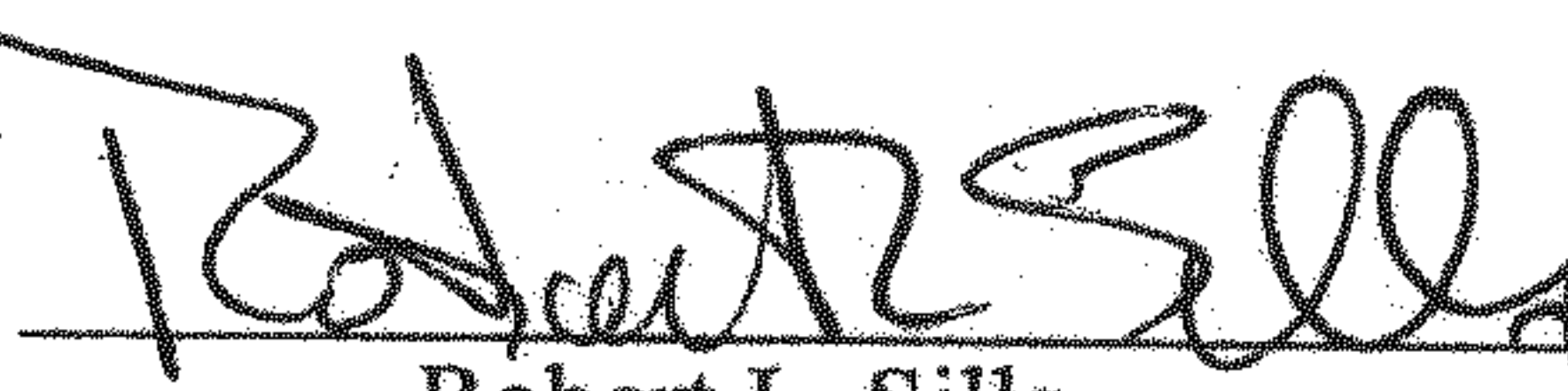
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*Attorneys for Altimor Holdings & Investments Ltd.  
and Alpren Ltd.*

December 18, 2007

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by



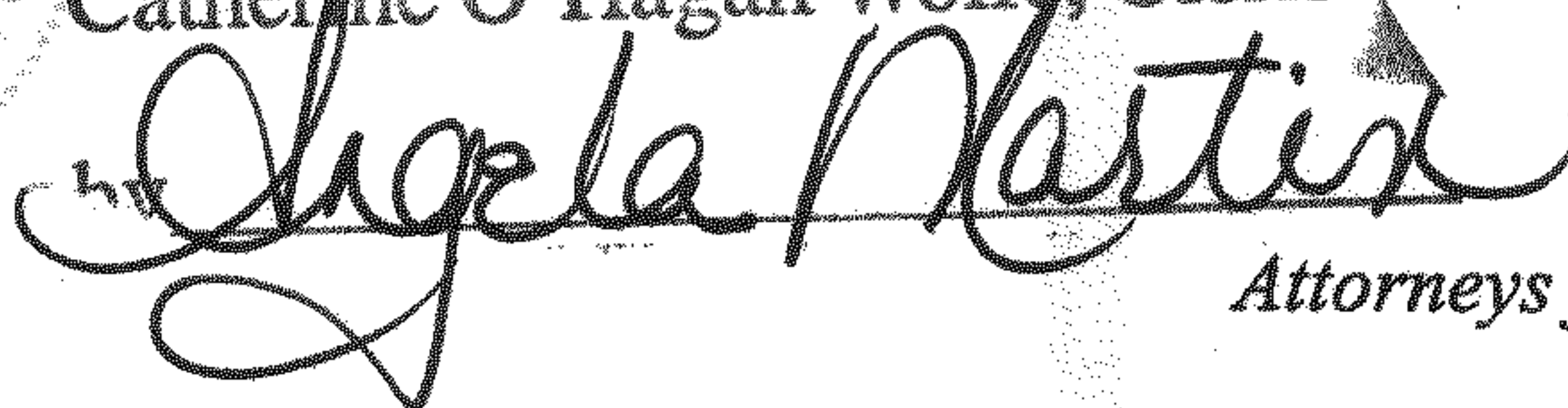
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*Attorneys for Telenor Mobile Communications AS*

A TRUE COPY

Catherine O'Hagan Wolfe, Clerk



SO ORDERED:

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

By:

  
Deputy Clerk

12/27/07  
(Date)

